THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.21969 OF 2006

DATED: 13-07-2007

BETWEEN

P.J.V. Chakrapani,
S/o. late Pondi Purushotham,
Occ: Agriculture, R/o. Yetapaka
Village, Bhadrachalam Mandal,
Khammam District and another.

...PETITIONERS

AND

The Project Officer,
Integrated Tribal Development
Authority (ITDA), Bhadrachalam,
Khammam District and another.

...RESPONDENTS

ORDER:

Petitioners submit that the land in an extent of 6.40 hectares in R.S.No.136 situated at Yetapaka village, Bhadrachalam Mandal, Khammam district was acquired by their father and after his death they have been in possession and enjoyment of the same. While so, pending settlement proceedings under the Andhra Pradesh Scheduled Areas Ryotwari Settlement Regulation Act 2 of 1970 before the Sub Collector cum Settlement Officer, Bhadrachalam, notices under Sections 7(1) and 9 of the said Act dated 28.07.2005 have been issued advising the petitioners and others to appear on 05.08.2005 along with all relevant documents, but thereafter the enquiry has not been conducted in respect of the said proceedings in Case No.5314. Petitioners further submit that even before their entitlement either to get patta or not is decided, the said land is sought to

be allotted in favour of the second respondent. Thus, it is their case that the action of the respondents in dispossessing them without following due process of law is illegal and arbitrary.

2. Counter has been filed stating that originally the Settlement Officer build up a case against one Pondi Samuel in Case No.5314 of 1977 and by order dated 04.11.1977 rejected the claim of said Samuel, against which the said Samuel preferred an appeal in A.P.No.282 of 1979 before the Director of Settlements and the appeal was dismissed by order dated 23.02.1983. Aggrieved by the said order the first petitioner herein along with others preferred a further appeal under Section 9(3) of the of Andhra Pradesh Regulations 2 of 1970 and the same was rejected as time barred by the order of the Commissioner of the Land Administration in CCLA's Ref.No.L1/169/2004 dated 12.05.2004 and thereafter, a review petition has been filed before the Commissioner of Appeals, which was also rejected by order in proceedings No.L1/345/2004 dated 16.10.2004. Questioning the said order the first petitioner and others filed W.P.No.4300 of 2005 before this Court and this Court by order dated 09.03.2005 dismissed the writ petition on the ground that except the eight petitioner – P. Samuel, therein none of the petitioners are parties either to the proceedings of the Settlement Officer in Case.No.5314 dated 04.11.1977 or in A.P.No.282 of 1979 and since the said Samuel failed to produce any recorded evidence and documents, his claim was disallowed, therefore, the petitioners are not entitled to challenge the said proceedings. However, it was left open to the petitioners to avail all the remedies as may be available under law.

3. It is further stated in the counter that after dismissal of the said writ petition, the first petitioner and others filed present claim petition on 14.07.2005, therefore, in the said proceedings, notices dated 28.07.2005 have been issued to the petitioners. Admittedly, the said proceedings have not been finalized.

4. The learned Government Pleader further submits that though the petitioners earlier filed W.P.No.18116 of 2005 for self same relief alleging that the respondents are trying to dispossess them from the land in question and obtained an order dated 17.08.2005, directing the Mandal Revenue Officer, Kothagudem Mandal not to dispossess the petitioners from the land in question without following due process of the law; the fact remains that the petitioners were already dispossessed on 01.04.2005 and the said land was allotted in favour of the second respondent for the benefit of the tribals. He further submits that the second respondent already started construction work of the school of Excellence for Tribal Students and the Government also released funds to a tune of Rs.3.85 crores and that the petitioners are not in possession of the said land, therefore, the question of dispossessing them does not arise.

5. In view of the aforesaid disputed questions of fact, I am not inclined to pass any positive order in favour of the petitioners as to not dispossess them, but even assuming that the petitioners were already dispossessed from the said land and the same was allotted in favour of the second respondent for construction of the school; the claim pending before Settlement Officer cannot be made as ineffective or infructuous. If the claim of the petitioners and others for grant of patta is ultimately allowed, the petitioners and others would be entitled for the compensation of the land.

The writ petition is accordingly disposed of directing the Sub Collector cum Settlement Officer, Bhadrachalam, to complete the enquiry with regard to the claim of the petitioners and others for grant of patta under the Andhra Pradesh Scheduled Areas Ryotwari Settlement Regulations 2 of 1970 as expeditiously as possible after giving reasonable opportunity to the petitioners in accordance with law. There shall be no order as to costs.

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V. ESWARAIAH, J

July 13, 2007
DSK